



**In the
Supreme Court of the United States**

OCTOBER TERM, 1971

No. 71-685 and No. 71-691 — (Consolidated)

ROBERT J. LEHNHAUSEN, Director of Department of Local
Government Affairs of the State of Illinois,

Petitioner,

No. 71-685

vs.

LAKE SHORE AUTO PARTS CO., et al.,

Respondent.

EDWARD J. BARRETT, County Clerk of Cook County,
Illinois, et al.,

Petitioners,

No. 71-691

vs.

CLEMENS K. SHAPIRO, et al.,

Respondents.

On Writ Of Certiorari To The Supreme Court Of Illinois.

**OBJECTIONS TO MOTION FOR LEAVE TO FILE
A BRIEF AS AMICI CURIAE**

Respondents in *Shapiro v. Barrett*, No. 71-691, who are
Clemens K. Shapiro, Jerome Herman d/b/a The Spot,
Guy S. Ross and Eugene R. Ross d/b/a Guy S. Ross &

Co., and M. Weil and Sons, Inc., for themselves and on behalf of the classes of all natural persons, business proprietors, business partnerships and corporations, respectively represented by them, object to the motion of the American National Bank & Trust Company of Chicago, et al., members of the Corporate Fiduciaries Association of Illinois, for leave to file a brief as *amici curiae*, upon the following grounds:

These respondents have withheld consent to the filing of the *amici* brief for the reasons set forth below, and therefore Supreme Court Rule 42-3 is controlling in stating the grounds and requisites for an applicant's motion to file a brief as *amicus curiae*.

Under Supreme Court Rule 42-1, motions to appear as *amicus curiae* "are not favored". The present motion presents no facts compelling permission for the granting of the motion. For example, no facts or relevant arguments and materials not already presented, or which would not otherwise be submitted, are set forth. No reasons or facts are alleged to suggest that the applicants are not already adequately included and are not in fact included in the classes represented by respondents.

In addition, Clemens K. Shapiro represents the respondent class into which "natural person" beneficiaries of trusts fall. That representation has been found to be adequate, and it coincides and is synonymous with the position of the State's Attorney of Cook County; in his brief for Edward J. Barrett, et al. To the extent that individual non-corporate business entities are beneficiaries of *amici's* trusts, the applicant's position is represented by Jerome Herman, et al. and by the Illinois Attorney General in their briefs, and by the Governor of the State of Illinois in his *amicus* brief. If *amici* are proceeding for corporate fiduciaries independent of the character of the beneficiaries

of their trusts, those corporations are included in the class represented by M. Weil and Sons, Inc. All matters posed by *amici* are already before the Court as the record and briefs on file amply indicate.

The original complaint in *Shapiro v. Barrett*, filed in the Circuit Court of Cook County, Illinois, contains the following description of those encompassed by the plaintiffs' (respondents here), representation in that case:

"Members of the classes represented before this Court are submitted by these plaintiffs to include, and are intended to include, all others affected by Amendment Article IX-A to Illinois Constitution of 1870, in regard to all that amendment; which others include but are not limited to non-citizens of this State; those authorized to do business in this State; and those required to list property as provided in Section 534 of Illinois Revenue Act of 1939. [ch. 120, Sec. 482, et. seq. Ill.Rev.Stat. 1969]" (Excerpts of Record in Illinois Supreme Court, p. 4)

No matter which definition of "individuals" under Article IX-A is ultimately sustained, all those conceivably encompassed within that term are before the Court.

The statute referred to, being Section 534 of the Illinois Revenue Act of 1939, includes trustees, conservators, guardians, executors and all other categories of individuals represented by the present plaintiffs. That statute is appended hereto as Appendix A.

A reading of the motion, including the Brief and Appendices, shows on its face that nothing is added by the applicants who have waited well over one year to petition to participate in these proceedings. The brief attached to the motion of *amici* is improperly filed since such briefs may only be filed after leave of court. (Rule 42-2). Present *amici* will additionally complicate already cumbersome

proceedings resulting from the granting of two Petitions for Certiorari, the denial of a third such Petition, and the existence of complete briefs on the merits, another respondent's brief to be filed and replies to these briefs.

WHEREFORE, respondents pray that the Motion for leave to file a brief as *amici curiae* of the members of the Corporate Fiduciaries Association of Illinois be denied.

Respectfully submitted,

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and

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Respondents in Barrett v. Shapiro.

Dated: June 23, 1972

APPENDIX

APPENDIX

APPENDIX "A"

(Chapter 120, Sec. 534, Illinois Revised Statutes)

§ 534. *Who lists personal property*

Personal property shall be listed in the following manner:

(1) Every person of full age and sound mind, being a resident of this State, shall list all his moneys, credits, bonds or stocks, shares of stock of joint-stock or other companies (when the capital stock of such company is not assessed in this State), moneys loaned or invested, annuities, franchises, royalties and other personal property.

(2) He shall also list all moneys and other personal property invested, loaned or otherwise controlled by him as the agent or attorney, or on account of any other person or persons, company or corporation whatsoever, and all moneys deposited, subject to his order, check or draft, and credits due from or owing by any person or persons, body corporate or politic.

(3) The property of a minor child shall be listed by his guardian; if he have no guardian, then by the father, if living; if not, by the mother, if living; and if neither father nor mother be living, by the person having such property in charge.

(4) The property of an idiot or lunatic, by his conservator; or if he has no conservator, by the person having charge of such property.

(5) The property of a person for whose benefit it is held in trust, by the trustee; of the estate of a deceased person, by the executor or administrator.

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(6) The property of corporations whose assets are in the hands of receivers, by such receivers.

(7) The property of a body politic or corporate, by the president, or proper agent or officer thereof.

(8) The property of a firm or company, by a partner or agent thereof.

(9) The property of manufacturers and others in the hands of an agent, by and in the name of such agent, as merchandise.

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